

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION**

IN RE:

DONALD J PECK  
Debtor,

CASE NO. **09-10560-SDB**  
CHAPTER 7  
JUDGE SUSAN D BARRETT

CHASE BANK USA, N.A  
Plaintiff,

vs.

Adv. Pro. No. **09-01036-SDB**

DONALD J PECK  
Defendant

**RESPONSE TO DEFENDANT'S MOTION FOR SANCTIONS  
PURSUANT TO RULE 9011**

Now comes Plaintiff Chase Bank USA, N.A., through counsel, and responds to the Defendant's motion as follows:

1. Admitted in part and Denied in part. Chase also brought the complaint under 11 USC §523(a)(2)(C) as cash advances were incurred totaling over \$1000 within the presumption period in checks written directly to Mr. Peck.
2. Admitted.
3. Admit. Defendant's usage of the card caused the credit limit to be exceeded. Once the card limit was exceeded, Chase by agreement can revoke the right to use the card.
4. Admit. However, in this case at hand, there is also at least \$1000 in presumption which under 11 USC §523(a)(2)(c) is by statute nondischargeable unless rebutted.
5. Rodenberry is currently still good law however there numerous case which treat this case negatively.
6. Admitted. However, counsel did send a letter requesting information regarding the transfer, etc to defendant's counsel requesting information prior to taking any steps towards filing the complaint. No response was received.

7. Denied. See prior response.
8. Denied.
9. Denied. Failure or inability to pay is a factor in using the totality of circumstances in determining the elements of fraud and intent.
10. Denied.
11. Plaintiff received the letter but based on the presumption of nondischargeability of the \$1000 incurred by Mr. Peck. Plaintiff was substantially justified in bringing the complaint and not a frivolous complaint.
12. Denied.

WHEREFORE, Chase Bank USA, N.A. asks this court to deny the Defendant's motion.

Dated: July 31, 2009

/s/ Elizabeth H Parrott  
ELIZABETH H PARROTT  
Weinstein & Riley PS  
Attorney for Chase Bank USA, N.A.  
Post Office Box 23408  
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Georgia Bar Number: 750965

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I hereby certify that on July 31, 2009, I electronically filed the foregoing  
Paper(s) with the Clerk of the Court using the ECF system which will send notification of  
such filing to the following:

Lee Ringler, Attorney for Defendant

and I hereby certify that I also mailed via United States Postal Service the foregoing  
documents to the following on July 31, 2009:

Lee Ringler, Attorney for Defendant

Dated: July 31, 2009

/s/ Elizabeth H Parrott  
Weinstein & Riley PS  
Attorney for Chase Bank USA, N.A.  
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